

MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: November 3, 2023

RE: Legislative Report: Austin and Washington Update

Please find below an update on legislative activities in Austin and Washington. *(To access links below, control+click on link.)*

Gulf Coast Protection District (GCPD) Update

The [Gulf Coast Protection District](#) Board of Directors will meet at 10:00 am on Wednesday, November 8, 2023, at the Bridge City Community Center, 105 Parkside Dr., Bridge City. [Access agenda](#) and you may watch and listen to the meeting via the live broadcast. [View Live Stream](#)

Austin Update

Texas Legislature – 3rd Special Session Action

- **Update on Public Education, School Choice Legislation**

Earlier this week Governor Abbott expanded the 3rd Special Session Agenda to include additional public education funding in hopes of the Legislature passing the Governor's priority school choice legislation. In efforts reach agreement, Governor Abbott indicated support for legislation to create "universal" education savings accounts (ESAs) worth \$10,400 to help families pay for private schools or other education-related expenses, provide teacher pay increases, and boost funding for public schools and school safety. However, with a few days left until the 3rd Special Session ends, the House has not held any committee hearing on ESA legislation and plans no action prior to the end of session on November 7th. Governor Abbott is expected call a 4th Special Session that could start as early as next week.

- **Other Action**

SB 4 (Flores) Illegal immigration – Creates punishments related to stash house operations. Final passage and sent to the Governor.

SB 7 (Middleton) COVID 19 Vaccines – Prohibits private sector companies from imposing COVID 19 vaccine mandates. Final passage and sent to the Governor.

- **Final Action Uncertain**

HB 4 (Spiller) Border Security – There are two versions of HB 4. Under HB 4 authored by Rep. David Spiller (R- Jacksboro), if a police officer has evidence a person crossed the southern border illegally, they could detain and transport that person to a port of entry and order them returned to Mexico even if they're not a Mexican citizen. Sen. Brian Birdwell (R-Granbury) substituted HB 4 with the Senate version, which would create a state crime to enter the country illegally from Mexico. Police would incarcerate the immigrant who would await prosecution for a misdemeanor. The Senate keeps the House language that

requires local government indemnification of an official, employee, or contractor for damages arising from a cause of action, or for attorney's fees arising from a criminal prosecution, resulting from an action taken by the person to enforce the new criminal provisions related to improper entry from a foreign nation. In its current form, the amount of local government indemnification for damages arising from a cause of action against an officer, employee, or contractor is capped at \$10,000 for a single occurrence of property damage, and \$100,000 to any one person or \$300,000 for any single occurrence of personal injury or death. It is unclear if differences between the bills can be reconciled and passed before the end of session.

SB 6 (Huffman) Border security and public safety – Provides \$1.54 billion to build the boarder wall. The Senate bill differs from a House-passed bill (HB 6) by including a provision of \$40 million for border security operations and increased law enforcement presence at Colony Ridge, a residential development in Liberty County where there have been allegations of increased crime and illegal immigrant cartel activity. The Senate passed the bill, but the House will need to hear and act on the bill in committee, and get it passed on the House floor.

TWIA Board Reviews 2024 Budget Information

This week the Texas Windstorm Insurance Association (TWIA) Board of Directors met to review TWIA's proposed 2024 budget. No premium rate increase was proposed. Select highlights of the budget presentation include:

- The growth in TWIA policy count that began in 2021 is expected to continue. Policies in-force are projected to increase in 2024 to nearly 265,000 by year end. Direct written premiums are projected to grow to just over \$815 million.
- The proposed 2024 budget increases net operating expenses to \$40.2 million compared to \$35.2 million in the 2023 budget. TWIA's budgeted expense ratio (operating expense divided by earned premiums) will fall from 6.5 percent to 5.4 percent.
- Personnel costs are projected to rise slightly to meet TWIA's higher policy count. TWIA will continue to convert certain positions from contractor to employee status for long-term cost savings.
- During 2024, TWIA intends to invest in migrating underwriting, claims, and related systems to the cloud to enhance data security and reduce long-term costs.
- Reinsurance costs are expected to continue rising based on increased exposure and the ongoing hard state of the reinsurance market.

For further details, review the [TWIA 2024 Budget Presentation](#). The Board will consider final action regarding the budget at its December 12 meeting in Corpus Christi.

Comptroller Updates to List of Financial Companies that Boycott Energy Companies

Comptroller Glenn Hegar added five companies to his office's [list of companies](#) that boycott the oil and gas industry bringing the total to fifteen companies. Companies on this list are subject to divestment provisions under [Chapter 809 of the Texas Government Code](#). Chapter 809 requires state entities, including major retirement systems and the Permanent School Fund, to adhere to the investment prohibitions and divestment requirements under that chapter. These entities must notify the comptroller of their holdings in listed financial companies within 30 days and submit an annual report detailing compliance with Chapter 809. The agency also updated the [answers to frequently asked questions](#) regarding the entire listing process and the research conducted by Comptroller's office staff.

State governmental entities subject to the investment prohibitions and divestment requirements in the statute include the Employees Retirement System of Texas, Teacher Retirement System of Texas, Texas Municipal Retirement System, Texas County and District Retirement System, Texas Emergency Services Retirement System and the Texas Permanent School Fund. While cities are not subject to Chapter 809

divestment rules, cities are prohibited under [Chapter 2274 of the Government Code](#) from entering certain contracts with energy-boycotting companies. This list can be a useful tool to determine whether a potential city vendor could create issues under Chapter 2274.

Comptroller Hearing on Local Sales Tax Sourcing Rule Changes on November 8th

Comptroller Glenn Hegar will hold a hearing on the published notice of changes to administrative rules governing local sales tax sourcing. [The proposal](#) would add language to the existing sales tax sourcing rule governing the location where an order is received. The Comptroller asserts the changes are necessary to provide a clear articulation of the interpretation of the term “received” that is applicable to all orders, including automated website orders and fulfillment warehouses. The hearing will take place at 9:00 a.m. in Room 2.034 of the Barbara Jordan Building, 1601 Congress Avenue, Austin. Written comments may be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: tp.rule.comments@cpa.texas.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the Texas Register, which means the comment deadline falls on Sunday, November 26, 2023.

BDO Releases Draft of BEAD Initial Proposal

The Texas Broadband Development Office (BDO) has released its drafts of Texas’ Initial Proposal, [Volume I](#) (PDF) and [Volume II](#) (PDF), for public comment. The BDO developed the Initial Proposal for the federal Broadband Equity, Access, and Deployment (BEAD) Program using comprehensive engagement and feedback from local governments, community-based organizations, community anchor institutions, industry and residents lacking a reliable, affordable high-speed internet connection. Texas has been allocated \$3.3 billion to bring last-mile connectivity to unserved and underserved households and businesses across the state. The BDO has been planning for efficient use of this funding to expand reliable broadband to the locations that need it most, and the office’s proposed approach is presented in detail through the Initial Proposal. The BDO is accepting public comment on both volumes of the Initial Proposal through **Dec. 4, 2023**. BDO encourages residents, local governments, community-based organizations and others to provide feedback. To read the Initial Proposal and provide comments, please use [this form](#). If you have any questions about the Initial Proposal public comment process, please let me know or you can email plan4broadband@cpa.texas.gov.

Washington Update

FY 2024 Appropriations Update

- **FY 2024 Transportation, Housing and Urban Development (THUD) Appropriations bill**

The THUD appropriations bill is the legislative vehicle that holds the transit, community development, and HOME program formula funds received by the City of Galveston.

Senate Action – Passed three FY 2024 appropriations bills in a “minibus” package. The package provides funding for military construction and the departments of Veterans Affairs, Agriculture, Transportation, and Housing and Urban Development. Senator Kevin Cramer (R-ND) withdrew his amendment that would stop the DOT from directing state and metropolitan transportation authorities to establish their own targets for lowering and measuring carbon emissions, due to a 60-vote threshold needed for the amendment to pass. DOT proposed the rule last year, but hasn’t finalized it. If DOT moves forward with the rule, Senator Cramer plans to put forward a measure to rescind it under the Congressional Review Act, which would require only a simple majority to pass.

House Action – House leadership has postponed a vote on the FY 2024 THUD bill due to disagreements over costs and Amtrak. The bill reduces Department of Transportation funding by \$7 billion compared to FY 2023 levels, \$1.2 billion from HUD funding compared to FY 2023 levels. A [summary of the bill updated](#) earlier this week set the proposed price tag at little more than \$90 billion in discretionary funding, falling more than 8 percent below what [President Biden](#) requested in his budget. the Biden Administration has issued a veto threat on the House-passed FY 2024 THUD Appropriations bill.

▪ **Continuing Resolution – Avoiding Government Shutdown**

Federal government funding runs out November 17th, prompting the need for a Continuing Resolution (CR) to avoid a government shutdown. House Speaker Johnson suggested a “laddered” approach for the next CR that would extend pieces of current appropriations for different time periods, effectively setting up a series of funding time limits while avoiding a single deadline that triggers a partial government shutdown for all agencies. Further details on the “laddered” approach are still forthcoming, but one method discussed involves extending three of the 12 appropriations bills at time, expiring one week apart. After the first three bills’ interim funds expire, members would have another week to get additional bills passed before the next three bills’ deadline hits, and so on. If Congress can’t pass the FY 2024 appropriations bills by April, then defense and nondefense programs face an automatic across-the-board 1 percent spending cut due to a provision included in the federal debt limit legislation passed in June. Meanwhile, Senate appropriators are leaning towards a CR ending the week of December 11th.

National Flood Insurance Program (NFIP) Update

NFIP Authorization

NFIP’s authorization has been extended until [November 17, 2023](#), as part of the legislation that continued funding for federal agencies through a “stop-gap” continuing resolution. NFIP is again at risk of lapse, with the November 17 deadline approaching. A CRS report, [“What Happens If the National Flood Insurance Program \(NFIP\) Lapses?”](#), explains consequences of NFIP’s expiration, affecting NFIP’s authority to provide new contracts and limiting its borrowing authority from the Treasury.

FEMA Technical Mapping Advisory Council – Special Flood Hazard Area and Fill Interim Report

FEMA’s Technical Mapping Advisory Council (TMAC) released a [Special Flood Hazard Area and Fill Interim Report](#). This report responds to a request from FEMA, which asks the TMAC to:

- Recommend if/how FEMA should modify the definition of the Special Flood Hazard Area (SFHA) or modify how the SFHA is currently calculated (without redefining it). The SFHA is currently defined as “the land in the floodplain within a community subject to a 1-percent or greater chance of flooding in a given year.”
- Recommend how FEMA might consider changing procedures for modifying the SFHA through letters of map change and map updates when land is filled or graded to be at or above estimated 1-percent-annual-chance exceedance (1% AEP) flood levels (or Base Flood Elevations [BFEs]).

In response, TMAC puts forward [six recommendations](#):

- FEMA should develop two flood hazard areas: 1) Special Flood Hazard Area (SFHA) – to be used for determining mandatory purchase requirements based on existing conditions 2) Flood-Prone Area (FPA) – to be used for floodplain management requirements based on future conditions
- FEMA should develop Special Flood Hazard Areas based on the existing 1-percent-annual-chance flood by including estimates of uncertainty at the 95% confidence limit, not the mean, as is currently done.
- FEMA should require the flood hazard area developed for Flood-Prone Areas (FPAs), for the application of floodplain management requirements, be based on future conditions (including land use and climate change) at the 95% confidence limit.

- FEMA should develop the 0.2% chance flood based on the same parameters as the 1% including existing and future conditions.
- FEMA should include all requirements related to the placement of fill in flood-prone areas be included as part of the floodplain management requirements in 44 CFR 60.3.
- FEMA should require participating communities as part of permitting duties, to quantify and put on file the impacts of proposed fill and other development on flood stages and the environment prior to issuance of the fill permit. When increases in flood elevation or potential negative environmental consequences are found and cannot be mitigated, at a minimum property owners and appropriate environmental agencies must be notified prior to permit issuance

TMAC will hold an in-person [public meeting](#) with a virtual option on **Tuesday, November 28, 2023, and Wednesday, November 29, 2023**. The purpose of this meeting is for the TMAC members to discuss the content of the 2023 TMAC Annual Report. The meeting can be accessed virtually using the following Microsoft Teams Video Communications link (Tuesday Link: <http://tinyurl.com/42997fks>; Wednesday Link: <http://tinyurl.com/ywpsxfnv>). Members of the public who wish to attend the virtual meeting must register in advance by sending an email to FEMA-TMAC@fema.dhs.gov (Attn: Brian Koper) by 4:00 p.m. CST on Thursday, November 26, 2023. The public is invited to provide written comments.

FTA Seeks Comments on Transit Worker Rest Periods

The Federal Transit Administration (FTA) published Advanced Notice of Proposed Rulemaking (ANPR) regarding consideration of proposing minimum safety standards for adequate rest periods for transit workers to reduce fatigue-related safety incidents. Specifically, FTA is seeking public input on: 1) hours of service; and 2) fatigue risk management programs. Public input will help guide decision-making on whether and how FTA would pursue regulatory action in these two areas. Comments are **due by Friday, December 29, 2023**. For more details, see the published [Federal Register ANPR](#).

Biden Administration Outlines Actions to Support Conversion of Office Buildings to Residential Use

On Friday the administration [announced](#) new plans to support the conversion of high-vacancy commercial buildings to residential use. The new actions include: the Department of Transportation (DOT) released new [guidance](#) on how the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) programs can be used to finance housing development near transportation, including conversion projects; the Department of Housing and Urban Development (HUD) [released](#) an updated [notice](#) on how the Community Development Block Grant (CDBG) can be used to boost housing supply, including the acquisition, rehabilitation, and conversion of commercial properties to residential uses; and the General Services Administration (GSA) will expand on its Good Neighbor Program to promote the sale of surplus federal properties. The White House also released a [Commercial to Residential Federal Resources Guidebook](#) and the Treasury Department released a [blog](#) on tax incentives for builders of multifamily housing. Other agencies will provide technical assistance to assist states and localities interested in pursuing conversion.

Reports of Interest

[The Factors Influencing the High Cost of Insurance for Consumers](#)

Congressional Research Service, November 2, 2023

[Property Tax Today, Quarterly Property Tax News](#)

Texas Comptroller's Office, October 6, 2023